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VIA FEDEX

Marlene H. Dortch
Secretary
Federal Communications Commission
445 12th Street, SW
Washington, D.C. 20554

Re: **CS Docket No. 02-52**

Dear Ms. Dortch:

Charter Communications would like to further supplement the above captioned record with the following practical examples of how market forces can develop for the benefit of consumers unaided by government intervention.

Several Coalitions have brought forth their belief that cable operators, via the cable modem service, could block, impede, or impair access to legal content "at will". The Coalitions have further argued that Cable operators have not acted in the consumer's interest by failing to provide freedom of choice and unrestricted access to content. These assertions are without merit.

Charter Communication firmly believes in the rights of consumers to have access to legal content and we continue to provide such a service. We also believe and support the right to maximize partnerships with commercial entities to bring content to the consumer and to simplify navigation and services. This enables Charter Communications and other operators to enhance the rate of return on investment, which in affect, allows each operator to keep fees to consumers affordable while providing the service consumers demand.

• **RIGHT TO ATTACH**

Charter does not deny Charter Pipeline Subscribers (Charter's branded Internet service) the right to attach any manufactures' Cable Labs certified Cable Modems to the DOCSIS network for access to the Charter Pipeline Service and Internet related content. Charter in cooperation with Cable Labs and the retail industry provide multiple forms of information to assist the consumer in the selection of commercially manufactured brand name DOCSIS Modems, Routers and Gateways. These consumer purchased, owned, and controlled CPE's (Customer Premise Equipment) are attached to Charter's network to access the Internet. These Services are governed by Charter's Acceptable Use Policy (AUP). The AUP is used by Charter and other Internet Service Provider's to protect their

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network and business from unwanted abuses. This is true in the Dial-up and DSL business community where Microsoft, AOL, and Earthlink have substantial share. Charter's Residential Service packages are subject to the restrictions of the AUP which prohibits harm to the network, reselling access, commercial services, allowing unauthorized access, security breaches, use of or sharing of illegal and/or non licensed content or applications. Legal use and legal access for commercial services and applications may be purchased through Charter Business Networks also known as CBN (as described in more detail below). This separation of Residential and Commercial services allows Charter to maintain the network robustness, offer low cost tiered Broadband product offerings, and minimizes abuse cases and harm to the Charter network.

- ACCESS TO CONTENT

Customers of Charter Pipeline may retrieve information from the Internet, commonly known as Residential Internet browsing via the World Wide Web, and obtain Internet access to e-mail accounts, and instant messaging (depending on the browser selected in the customer's sole discretion). Given the availability of competing broadband (and other) Internet access services, and financial market pressures to attract customers, Charter's motivation is to enable, not block Internet access or utility. "Walled Garden Content" was a business strategy of Dial-up ISP's and eventually gave way to open access to the Internet due to market pressure, customers demand, and financial opportunity.

- PACKET AND TRAFFIC MANAGEMENT

Charter manages "Type" of transaction by post mortem network management. A view of a Pipeline Customer is occasioned only when excessive traffic, harm to network, and other similar network harming nomenclatures come into play. The tools required to do "On-the-Fly" network management by packet-type are unrealistic and non-existent for the volumes of a Cable Operator. Charter does not re-direct or block URL requests based on site location or content type unless known issues exist with any such site, such as harm to the network or a known "spammer" or security concern. The AUP states the use of the service is for residential Internet services. This allows consumers the right to download legal content regardless of file type or size of packet without interruption.

Charter also offers a commercial service for consumers or business wishing to use a DOCSIS network for business services, which includes but are not limited to, Web Hosting, Wide Area Networks, University Networks, Commercial Work-at-Home, News Groups, and other commercial related services.

- DESK TOP APPLICATIONS

Charter Communications Broadband service allows the use of non-proprietary browsers and user technology. Charter customers may elect to use any Browser, media player, and email destination of their choice assuming it is compatible with the customer's own equipment. Variety and customer choice demands that Charter and the MSO community continue to develop and provide technical solutions to bring content, applications, and a richer broadband experience to the consumer.

- CHOICE OF ISP

In 1997, Charter signed an agreement with Earthlink and created a partnership with a nationally recognized ISP. Our relationship with Earthlink serves as the cornerstone of the Pipeline business openness principles. Charter and Earthlink serve over 150,000 customers in the communities of Los Angeles California, St. Louis Missouri, and Newtown Connecticut. We continue to explore opportunities with similar providers to enhance the customer choice, and bring forward new technologies, which would otherwise be hampered by un-necessary regulation.

- NO START PAGE REQUIREMENTS

Charter Pipeline customers are not restricted from selecting a personal "Start Page". However, if they do not request a "Start Page" setting during installation or do not have a recommendation, they are offered MSN's Customized Portal. Charter Pipeline customers using the Customized Portal number over 1 Million unique users. Many of these chose the MSN Portal after installation because of the media rich environment created from the MSN and Charter partnership. Charter continues to discuss similar opportunity with other nationally known providers of content with the intent of ensuring Charter Pipeline customers will continue to have "Choice" of content, email, and messaging services.

- NON DOCSIS ATTACHED DEVICES

Cable operators do not set standards and CE requirements of any device attached to the DOCSIS network beyond the Cable modem. Through open business negotiations, the XBOX On-line agreement provides a non-DOCSIS device the opportunity to attach to the network and claim "Compatibility". This effort to provide devices was largely the effort of Microsoft who performed extensive testing of their product to ensure consumers their product would not only work, but work well. Support links were made available at XBOX.com and at Charter's website. This does not preclude any competing game console from their own compatibility testing or obtaining a business agreement with Broadband Carriers. Charter continues to encourage and support innovation that promotes broadband and add value to the customer experience.

- TIERED BANDWIDTH AND PRICING

Charter's innovation and ability to provide Broadband Access and new services to Urban and Rural market is and has always been assisted by "Tiered" Broadband. Tiered service allows customers to buy data transfer rates, and volume of packets transferred tailored to customer needs. Through Charter Pipeline, consumers may purchase Broadband Internet access for as little as \$29.99. This 384kbps service has been offered throughout Charter service area's for over 5 years and continues to be our most popular Internet service.

- CLOSING STATEMENTS

Charter Communications firmly opposes any regulation that will have unintended consequences such as what has been presented by these Coalitions.

In deed, many of the companies represented in these coalitions will continue to lobby for premature regulation with the intent of gaining an unfair advantage over their market competitor's verses providing real value to the consumer through Internet distribution.

The unintended consequences of regulation are likely to be counter productive to the Public, and the Telecommunication industry.

Respectfully submitted,



Trudi McCollum Foushee
Vice President and Senior Counsel
Law and Regulatory Affairs

cc: Commissioner Michael J. Copps
Commissioner Jonathan S. Adelstein
Mr. Jordan Goldstein
Ms. Lisa M. Zaina
Ms. Barbara Esbin